First Nations Water Rights in British Columbia

A Historical Summary of the rights of the Chehalis Lake First Nation

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WATER MANAGEMENT BRANCH

FIRST NATIONS WATER RIGHTS IN BRITISH COLUMBIA:

A Historical Summary of the rights of the Chehalis Lake First Nation

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Gary Robinson
Project Manager
Water Management Branch

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6 MAP: Chehalis Band
i. 1:50,000 map showing both of the Chehalis Reserves

FIRST NATIONS WATER RIGHTS REPORT

BAND:	Chehalis Band		
ADDRESS:	Chehalis Road, R.R. #1, Comp. 66, Agassiz, BC, V0M 1A0		
CHIEF:	Chief Bill Williams		
PHONE:	796-2116	**FAX:**	796-3946
AFFILIATION:	Independent		

LOCATION:

The Chehalis Band occupies two reserves in areas located west of the Town of Hope and directly north of the City of Chilliwack, in the lower mainland region of the Province. The reserves are Chehalis 5 and Chehalis 6. Chehalis 5 is comprised of 881.3 hectares and is located on the north bank of Harrison River. Chehalis 6 is a 25.5 hectare reserve located southeast of Chehalis Reserve No. 5. Water rights have been allocated on only Chehalis Reserve No. 5.

The most recent population figures compiled by the Ministry of Finance report that the Chehalis Band has a total population, including registered and non-registered members, living on- and off-reserve, of 793.

The 2 Chehalis reserves are located in the Coastal Western Hemlock Biogeoclimatic Zone. The reserves lie at elevations ranging from sea level to 200 feet above sea level. The regional climate consists of average daily temperatures which range from lows of 0 degrees centigrade in January, a highs of 20 degrees centigrade in July. Annual rainfall for the area averages between 100 and 250 centimeters.

Water courses of significance include:

- **Domitian Creek**: flows east through the northern tip of Chehalis Reserve No. 5, and then drains into Morris Creek.

WATER ALLOCATIONS:

There are no records any allocations made by either the Indian Reserve Commission, by Order-in-Council of the Lieutenant Governor in Council, or by Order of the Board of Investigation. Further, there have been no actions to amend, cancel or record as abandoned, licenced rights pursuant to provisions in the *Water Act*..

The water rights of the Chehalis Band have been determined by one action of government over the years:

1) The issue of water licences in response to Federal Government applications requesting authorization for the use of water on reserve lands.

HISTORY, CURRENT STATUS AND NOTES:

Domitian Creek:

History:

Jul 5, 1979 In response to an application submitted by the Honorable Minister of Indian Affairs on behalf of the Chehalis Band, the Comptroller of Water Rights issued Conditional Water Licence 52433. The licence was assigned a precedence date of October 31, 1978 and authorizes the diversion of 100,000 gallons a day from Domitian Creek for domestic purpose. The appurtenant lands are specified as *Chehalis Reserve No.'s 4, 5, and 5A, Chehalis, Group 1, New Westminster District.

*Note: Chehalis Reserve No.'s 4, 5, and 5A have since been amalgamated into Chehalis Reserve No. 5.

In support of Conditional Water Licence 52433, Permit Over Crown Lands 12067 was granted to the Chehalis Band. The permit authorizes the occupation of Crown Land for the construction and maintenance of works required under the water licence.

Sep 24, 1979 A letter from the Vancouver District stated that the Chehalis Band expressed concerns about a proposed mining operation. According to the proposal the mine would be located immediately above the domestic water intake authorized under Conditional Water Licence 52433. A survey conducted by a Regional Geologist stated that the proposed operations would cause heavy pollution within Domitian Creek and it was advisable that the Band locate an alternate source of water.

Sep 26, 1979 A letter addressed to Chevron Canada Ltd. on behalf of the Chehalis Band, stated that no phase of their proposed mining or exploration projects should negatively affect the quality of water on Domitian Creek.

Further information regarding projects proposed by Chevron Canada Ltd. could not be located.

Current Status:

There is currently one licence active on Domitian Creek. It is for the use and benefit of the Chehalis Band.

The Water Survey of Canada has no records of streamflow for Domitian Creek. No alternate sources of water availability data were located during the course of this study.

Notes:

1. Under current licensing practices Conditional Water Licence 52433 would be issued for domestic and waterworks purpose. The amendment of this licence would qualify the Domitian Creek drainage area for designation as a Community Watershed under provisions contained in the Forest Practices Code.

OTHER INFORMATION:

Groundwater Records:

A review of well records maintained by the MELP - Groundwater Section found that no wells have been reported on the Chehalis Reserves. However, as the provision of well information to the Groundwater Section is voluntary this review should not be assumed to be complete.

Alternate Water Sources:

Currently the potential for water supply from connection to a municipal water supply is limited as there are systems in reasonable proximity to the Chehalis Reserves.

The location of Harrison River in relation to the Chehalis reserves qualifies it as a potential source of water for other purposes.

Water Protection Records:

The MELP - Water Protection Section records indicate that a .44 kilometer dyke is in place on the Chehalis River, in a location just west of Chehalis Reserve No. 5. The dike is reportedly maintained by the Band.

Summary of Water Rights Records

Chehalis First Nation

Water Source	Priority Date	Reserve Name	File No.	Document Type	Status	Superceded By	Licence PUC/MOD & OIC Allotments	Comments
Domitian Creek	1978/10/31	Chehalis 4, Chehalis 5, Chehalis 5A	0364833	CL 52433	Current		100,000 GAD/Domestic	CL 52433 - Purpose: Under current licencing categories licence would be issued for 'waterworks' purpose; would qualify the Domitian Creek drainage are for designation as a 'community watershed' under provisions contained in the FPC.

LAND AND WATER MANAGEMENT
WATER RIGHTS BRANCH

MINISTRY OF THE
ENVIRONMENT

THE PROVINCE OF BRITISH COLUMBIA—WATER ACT

CONDITIONAL WATER LICENCE

The Honourable Minister of Indian and Northern Affairs of Ottawa, Ontario

is/are hereby authorized to divert and use water as follows:—

(a) The source(s) of the water-supply is/are Domitian Creek.

(b) The point(s) of diversion is/are located as shown on the attached plan.

(c) The date from which this licence shall have precedence is 31st October, 1978.

(d) The purpose for which the water is to be used is domestic.

(e) The maximum quantity of water which may be diverted is 100,000 gallons a day,

and such additional quantity as the Engineer may from time to time determine should be allowed for losses.

(f) The period of the year during which the water may be used is the whole year.

(g) The land upon which the water is to be used and to which this licence is appurtenant is Indian Reserves No. 4, 5 and 5A, Chehalis, Group 1, New Westminster District.

(h) The works authorized to be constructed are diversion structure, tank, chlorinator and pipe

which shall be located approximately as shown on the attached plan.

(i) The construction of the said works shall be commenced on or before the 5th day of January, 1980, and shall be completed and the water beneficially used on or before the 31st day of December, 1982.

J.E. Farrell,
Deputy *Comptroller of Water Rights.*

File No. 0364833 Date issued: 5th July, 1979 Conditional Licence No. 52433

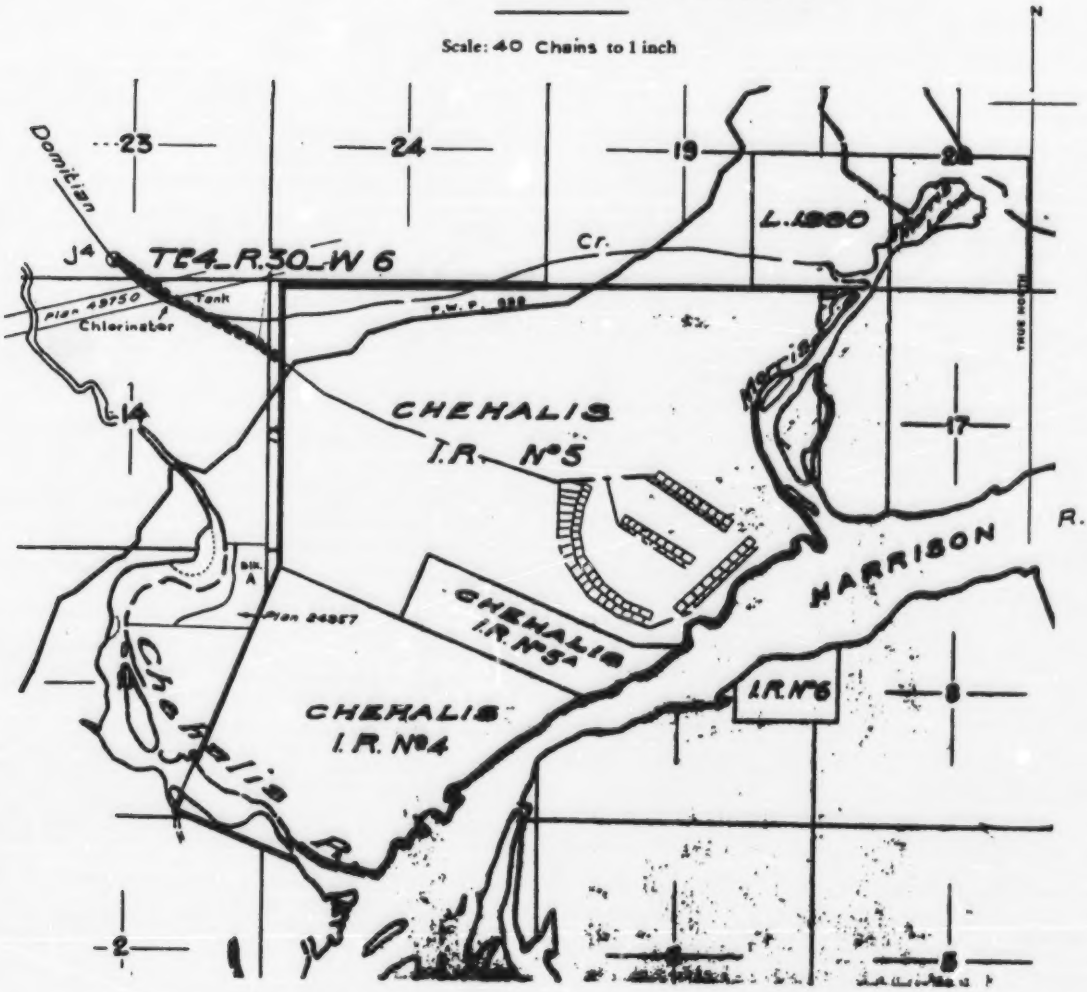
ENTERED ON
Map No. 58-1
By

British Columbia

NEW WESTMINSTER WATER DISTRICT

GP. 1 , NEW WESTMINSTER DISTRICT

Scale: 40 Chains to 1 inch



LEGEND

Point of Diversion ●
W.R. Map 5851
Pipe ———
Right of Way [redacted]

The boundaries of the land to which this licence is appurtenant are shown thus: ———

Signature [redacted]

Date 5th July 1979.

C.L. 52433
File 0364855
R/W Permit Nº. 12067

Kent Precinct

Province of British Columbia

Ministry of the Environment

PERMIT UNDER THE WATER ACT AUTHORIZING THE OCCUPATION OF CROWN LAND

The Honourable Minister of Indian and Northern Affairs of Ottawa, Ontario

the holder(s) of Conditional/~~FXM~~ Water Licence(s) 52433 authorizing the diversion of water from Domitian Creek is/are hereby

authorized to occupy Crown land by constructing, maintaining, and operating thereon the works authorized under the said water licence and any licences which may be issued in substitution thereof.

(*a*) The Crown land which is authorized to be occupied under this permit is a portion of

Fraction North West 1/4 Section 13, North East 1/4 Section 14, and South 1/2 of Section 23, Township 4, Range 30, West 6 Meridian,

the location of which is shown approximately on the plan attached to the said water licence.

(*b*) The approximate dimensions of the Crown land authorized to be occupied under this permit are

3800 feet in length and 15 feet in width, having an area of 1.31 acres.

(*c*) Subject to the payment of royalty, stumpage, and other compensation, and the obtaining of a licence to cut timber as provided under Condition 5, the permittee may cut and remove from the said land any timber, the removal of which is necessary to permit construction and maintenance of the said works.

(*d*) The annual rental for this permit is $ 2.00 , which is subject to review and revision at any time at the discretion of the Crown.

(*e*) This permit is appurtenant to the land, mine, or undertaking to which the aforesaid water licence is appurtenant.

(*f*) The conditions relative to the rights granted under this permit are printed on the back of this form.

Deputy Minister of Environment

File No. 0364833

Ref. Map 92 H/5 cd

W. R. Map 5851

Date issued: 5th July, 1979 Permit No. 12067

W.R.B. 12

CONDITIONS RELATIVE TO THE RIGHTS GRANTED UNDER THIS PERMIT

1. This permit is issued under the *Water Act*, and the rights hereby granted are subject at all times to the provisions of that Act and all Acts passed in amendment or substitution thereof and to all regulations from time to time made under any such Act.

2. There is reserved to the Crown the right to grant to other persons permits to occupy the land affected by this permit without compensation to the permittee or his successors in title.

3. In the event of any dispute arising at any time between the permittee and any owner of land adjacent to the land affected by this permit with respect to the area or boundaries of the land so affected, the licensee shall at his own expense, when so directed by the Deputy Minister of the Environment, have the said land surveyed by a duly qualified surveyor, and shall likewise file with the Ministry of the Environment at Victoria, British Columbia, a plan showing the result of the survey.

4. This permit and the rights granted hereunder are subject always to compliance by the permittee with the terms of his water licence, and if the rights granted under the said licence should at any time be suspended or terminated, the rights granted under this permit are thereupon likewise suspended or terminated.

5. The amount of stumpage, royalty, and (or) compensation payable to the Crown by the permittee in respect of trees, including merchantable or young growth, cut, removed, damaged, or destroyed by the permittee, shall be the sum or sums fixed by the Forest Service of the Province of British Columbia. Prior to the cutting, destruction, or flooding of any timber, the permittee must apply for and obtain a licence to cut timber from the District Forester.

Report Requested By : CHOCMA
Date Report Requested : 1996/09/24 10:50
Report Sorted By : Source Gazetted - Priority Date - Licence Number
Selection Criteria
START POINT : PD43357 - 5851 J4
END POINT : SO15100 - Domitian Creek right of Morris Creek

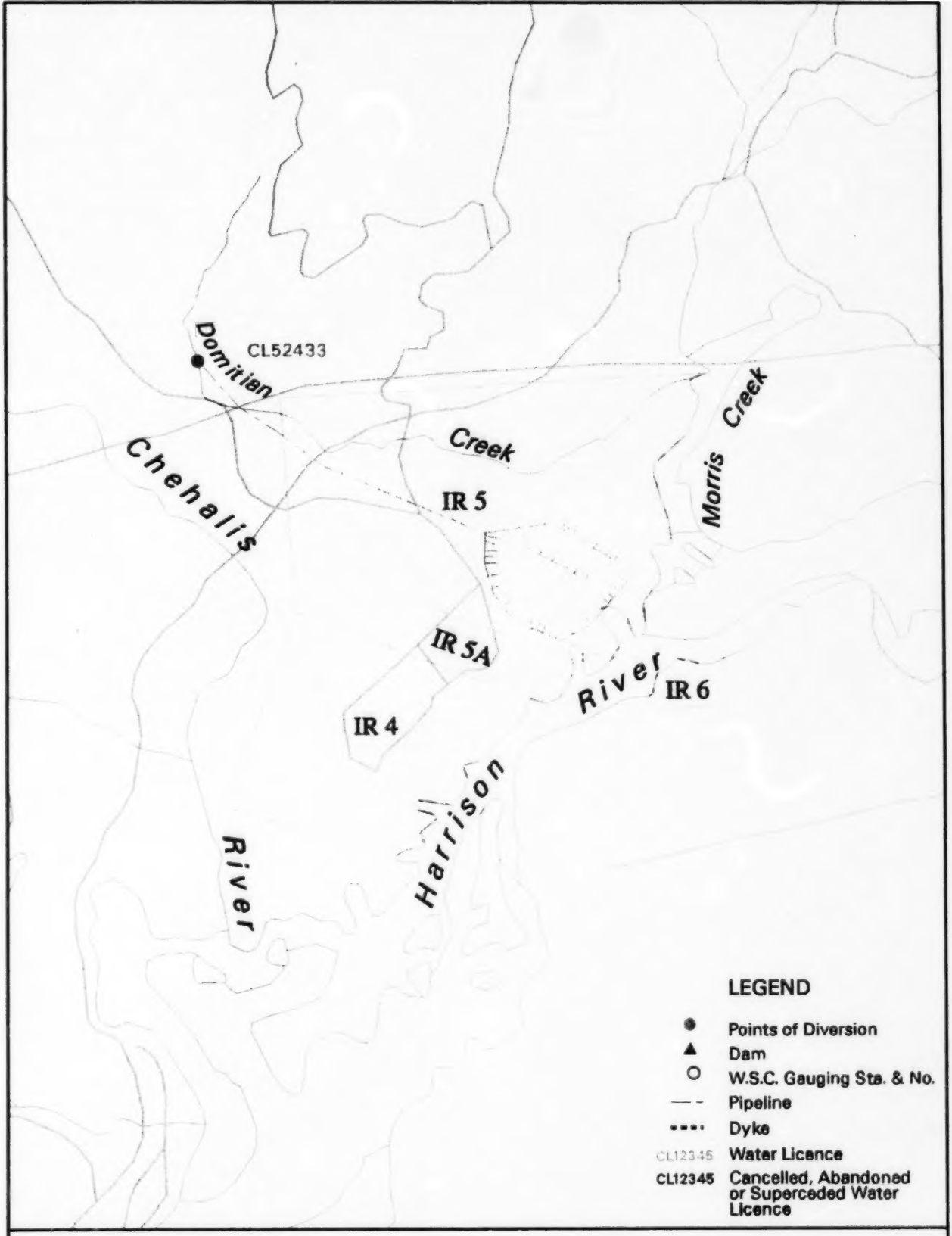
Priority YYYY/MM/DD	Licence Number	File Number	Appurtenancy	Licensee	PUC	Quantity/Units	Term Start	Term End	Licence Comments	Process Status
	Source		WR Map	POD	RKD POD Comments				Proc	
1978/10/31	C052433	0364833	IR #4, 5 & 5A CHEHALIS GP 1 NWD	CHEHALIS INDIAN BAND RR7-559-RD07 COMP 66 CHEHALIS RD RR 1 AGASSIZ BC V0M1A0	DOM	100,000.00 GD	Jan 01	Dec 31		
	Domitian Creek		WR5851	J4	N				20N NW - KENT	

---------- Total of 1 Licence Reported ----------

A REF. NO.	B RESERVE NAME & NO.	C BAND NAME	D WATER BODY	E TYPE OF WORKS	F LENGTH DYKE (KM)	G LENGTH B.P. (KM)	H CROWN WDTH. (M)	I APPROX. WATER SLOPE	J PROT'D. AREA (HA)	K DATE LAST CONST'D.	L CONST. FUNDED BY	M INSP- ECTED BY	N MAINTAINED BY
1	ASHNOLA 10	LOWER SIMILKAMEEN	SIMILKAMEEN R.	DYKE & B.P	0.40	1.20	?	?	60	1986	ARDSA	1.of D.	BAND
2	AIKVUCKS 15	SQUAMISH	SQUAMISH R.	DYKE	0.80	N/A	3.6	2:1	19	1977	B.C./MUN.	1.of D.	SQUAMISH DIST.
3	BARNSTON ISLAND 3	KATZIE	FRASER R.	DYKE	0.67	N/A	3.0	2:1	40.5	1950	FVDB	1.of D.	BRSR. I.D. DIST.
4	BELLA COOLA 1	BELLA COOLA	THORSEN CR.	DYKE	0.82	0.00	4.0	2:1	?	1986	BAND	?	BAND
5	BELLA COOLA 1	BELLA COOLA	TASTSCHAN CR.	DYKE & B.P	0.15	0.10	?	?	?	1974	BAND	?	BAND
6	CAPE MUDGE	CAPE MUDGE	SEA	SEAWALL	N/A	?	N/A	?	?	?	?	?	BAND
7	CHAWATHIL	HOPE	FRASER R.	B.P.	N/A	0.50	N/A	?	?	?	CPR	?	CPR
8	CHEAM 1	CHEAM	FRASER R.	DYKE	0.82	0.75	3.6	2.5:1	55.8	1974	FRJP/CNR	1.OF D.	CHILLIWACK DIST.
9	CHEHALIS 5	CHEHALIS	CHEHALIS R.	DYKE	0.46	N/A	4.0	2:1	881	1990	BAND	?	BAND
10	COQUITLAM 2	COQUITLAM	COQUITLAM R.	DYKE	0.50	N/A	?	?	70	?	BAND	?	BAND
11	COYICHAN 1	COYICHAN	COYICHAN/KOKSILAH RS.	DYKE	5.74	N/A	3.6	2:1	150	1985	ARDSA	1.of D.	BAND
12	DEADMAN'S CREEK	SKEETCHESTN	DEADMAN CR.	B.P.	N/A	?	N/A	?	800	1948	BAND	?	BAND
13	EAST SAANICH 2	TSAWOUT	SEA	SEAWALL	N/A	0.40	N/A	1.5:1	?	1985	BAND	?	BAND
14	ENDERBY 2	ENDERBY	SHUSWAP R./FORTUNE CR.	DYKE	?	N/A	?	?	340	?	BAND	?	BAND
15	FORT RUPERT 1	KWAKIUTL	SEA	SEAWALL	N/A	0.00	N/A	1.5:1	340	1974	BAND	?	BAND
16	GITANMAAX 1	GITANMAAX	SKEENA R.	GROYNE	N/A	?	N/A	N/A	?	?	?	?	BAND
17	GORDON RIVER 2	PACHENAHT	SAN JUAN R.	B.P.	N/A	0.50	N/A	2:1	?	1991*	BAND	?	BAND
18	HALFWAY 168	HALFWAY	HALFWAY R.	B.P.	N/A	0.10	N/A	?	?	1991*	BAND	?	BAND
19	KAMLOOPS	KAMLOOPS	SOUTH THOMPSON R.	DYKE	1.37	N/A	?	?	?	1990	BAND	?	BAND
20	KATIT 1	OWEKENO	UNKNOWN	DYKE	?	N/A	?	?	?	1990	BAND	?	BAND
21	KATZIE 1	KATZIE	FRASER R.	DYKE	0.60	N/A	3.6	2.5:1	31.5	1984	FRJP	1.of D.	PITT M'DOWS DIST.
22	KINCOLITH 14	KINCOLITH	NASS R.	CAUSEWAY	N/A	0.70	4.0	1.5:1	?	1990	BAND	?	BAND
23	KITAMAAT 2	KITAMAAT	HAISLA R.	DYKE	0.55	N/A	3.5	2:1	10	1988	BAND	?	BAND
24	KITWANGAK 1	GITWANGAK	SKEENA R.	B.P.	N/A	?	N/A	?	53	?	CNR	?	CNR
25	KITWILLGUCHSILT 7	GITWINKSIHLKW	UNKNOWN	CHAN. IMPS	N/A	N/A	N/A	N/A	52	1987	BAND	?	BAND
26	KULKAYU 4	HARTLEY BAY	SEA	SEAWALL	N/A	0.22	N/A	1.5:1	?	1977	BAND	?	BAND
27	LACHKALTSAP 9	LAKALZAP	GREENVILLE CR.	DYKE	1.40	N/A	4.0	1.5:1	800	1990	BAND/BC	?	BAND
28	LAKAHAHMEN 11	LAKAHMEN	MICOMEN SLOUGH	DYKE	0.90	N/A	?	?	23	1949	FVDB	1.of D.	M.MICOMEN I.DIST.
29	LOUIS CREEK 4	NORTH THOMPSON	N.THOMPSON/LOUIS CR.	B.P.	N/A	?	N/A	?	0.6	1984	BAND	?	BAND
30	NASSET 1	NASSET	SEA	SEAWALL	N/A	0.22	N/A	VERT.	?	1983	BAND	?	BAND
31	NATSOUT MAIN 2	NATSOUT	FRASER R.	DYKE	1.10	N/A	3.6	2.5:1	41.3	1974	FRJP	1.of D.	DIST.OF NATSOUT
32	NEMILLAN ISLAND 16	LANGLEY	FRASER R.	B.P.	N/A	0.40	N/A	?	101	?	BAND	?	BAND
33	MOUNT CURRIE 1,8,8,10	MOUNT CURRIE	BIRKENHEAD	DYKE	0.70	N/A	3.0	2:1	442	PRE-70	?	1.of D.	PEMBERTON D.DIST.
34	MUSQUEAM 2	MUSQUEAM	SEA/N.ARM FRASER R.	DYKE & B.P	0.55	0.40	?	?	27.3	?	BAND	?	BAND
35	NANAIMO RIVER 3	NANAIMO RIVER	NANAIMO R./SEA	DYKE	2.20	N/A	?	?	52	1934	BAND	?	BAND
36	NEQUATQUE 1	ANDERSON LAKE	GATES R./ANDERSON L.	DYKE	?	N/A	?	?	9	1968	KVTS/BCR	?	?
37	NESUCH 3	MOUNT CURRIE	LILLOOET R.	DYKE	8.20	N/A	3.6	2.5:1	295	1987	B.C./B.D.	1.of D.	PEMBERTON D. DIST.
38	NORTH THOMPSON 1	NORTH THOMPSON	NORTH THOMPSON R.	B.P.	N/A	0.60	N/A	?	250	?	BAND	?	BAND
39	PAPEKWATCHIN 4	LAKAHAHMEN	FRASER R.	DYKE	0.88	N/A	3.6	2.5:1	18.4	1980	FRJP	1.of D.	MICOMEN IS.I.DIST.
40	PENTICTON	PENTICTON	OKANAGAN R/SHINGLE CR.	DYKE	?	N/A	?	?	930	1953	B.C./CAN.	1.of D.	PROVINCE
41	PEMBERTON 2	COMOX	POWELL R.	B.P.	N/A	0.20	N/A	1.5:1	?	1972	BAND	?	BAND
42	PETERS 1	PETERS	FRASER	DYKE	0.25	N/A	?	?	125	1988	BAND	?	BAND
43	PETERS 2	PETERS	FRASER R.	B.P.	N/A	1.87	N/A	2:1	40	1988	BAND	?	BAND
44	PINCHIE 2	TL'AZT'EN NATION	STUART L./PINCHI R.	B.P.	N/A	0.10	N/A	1.5:1	30	1988	BAND	?	BAND
45	PORT SIMPSON 1	LAX KW'ALAAMS	SEA	CAUSEWAY	N/A	0.13	?	1:1	?	1990	BAND	?	BAND
46	QUALAOUT 1	LITTLE SHUSWAP	LITTLE R./ SHUSWAP L.	B.P.	N/A	0.13	N/A	?	?	1975	BAND	?	BAND
47	RUBY CREEK 2	SKAWAHLOOK	RUBY CREEK	DYKE	?	N/A	?	?	1.2	?	BAND	?	BAND
48	SALMON RIVER 1	SPALLUMCHEEN	SALMON R.	B.P.	N/A	0.19	N/A	1.5:1	?	1984	BAND	?	BAND
49	SCOWLITZ 1	SCOWLITZ 1	FRASER R./HARRISON R.	DYKE	2.90	N/A	3.6	2.5:1	93	1972	FRJP	1.of D.	KENT DIST.
50	SEABIRD ISLAND	SEABIRD ISLAND	FRASER R.	B.P.	N/A	1.90	N/A	2:1	166	1976/87	FRJP/BAND	1.of D.	KENT DIST./BAND
51	SEALCHEM 16	SQUAMISH	SQUAMISH R.	DYKE	0.80	N/A	3.6	2.5:1	4	1987	B.C./MUN.	1.of D.	SQUAMISH DIST.
52	SECHELT 2	SECHELT	SEA	B.P.	N/A	0.85	N/A	1.5:1	?	1984	BAND	?	BAND
53	SEYMOUR CREEK 2	SQUAMISH	SEYMOUR CR.	B.P.	N/A	?	N/A	?	1	?	LESEE	?	?
54	SKAWALOOK 1	SKAWALOOK	FRASER R.	B.P.	N/A	0.12	N/A	?	?	?	?	?	BAND
55	SKWAWK 10	LAKAHAHMEN	MICOMEN SLOUGH	DYKE	2.10	N/A	3.0	2:1	23	1949	FVDB	1.of D.	MICOMEN IS.I.DIST
56	SKWEOSEWAUKUM 1,7,9	LOWER SIMILKAMEEN	SIMILKAMEEN R.	DYKE & B.P	7.50	1.50	3.0	2:1	1100	1986	ARDSA	1.of D.	BAND
57	SKIDEGATE 1	SKIDEGATE	SEA	B.P.	N/A	0.10	N/A	?	?	1985	BAND	?	BAND
58	SKWALAPH 10	SKWAH	FRASER R.	DYKE	4.20	N/A	3.0	2.5:1	400	1941	FVDB	1.of D.	MICOMEN IS.I.DIST
59	SKWALI 3	SKWAH	FRASER R.	DYKE	2.50	N/A	3.0	2:1	4	1950	FVDB	1.of D.	CHILLIWACK DIST.
60	SKWAY 4,5	SKWAH	FRASER R.	DYKE	*	N/A	*	*	*	1950	FVDB	1.OF D.	?
61	SLOSK 1	SETON LAKE	SETON R./SETON L.	B.P.	N/A	0.06	N/A	1.5-2:1	?	1990	BAND	?	?
62	SOOKAMLIE 14	SOOKAMLIE	CHILLIWACK R.	DYKE	2.61	N/A	3.7	2:1	?	1990	BAND	?	BAND
63	SWITSEMALPH 4	ADAMS LAKE	SHUSWAP L./SYPHON CR.	DYKE	?	N/A	?	?	?	?	LESEE	?	?
64	TSAWWASSEN	TSAWWASSEN	SEA	DYKE	2.50	N/A	3.6	2.5:1	273	1985	FRJP	1.of D.	CORP. OF DELTA
65	TSEATAH 2	CHEAM	FRASER R.	DYKE & B.P	2.00	0.75	3.0	2:1	97	1973	FRJP/BAND	1.of D.	KENT DIST./BAND
66	TSOUQUATE 4	CYA-SALA-MAUKK	SEA/TSOUQUATE R.	B.P.	N/A	0.28	N/A	?	?	1971	BAND	?	BAND
67	VANCOUVER 14	SQUAMISH	SQUAMISH R.	DYKE	*	N/A	*	*	*	1977	B.C./MUN.	1.OF D.	SQUAMISH DIST.
68	WHISPERING PINES 4	WHISPERING PINES	NORTH THOMPSON R.	DYKE	?	N/A	?	?	?	PRE-72	PREV.OWNER	?	?
69	ZAITSCHULLACH 9	LAKAHAHMEN	MICOMEN SLOUGH	DYKE	0.70	N/A	3.0	2:1	20	1949	FVDB	1.of D.	MICOMEN IS.I.DIST
				TOTALS	57.85	13.17							

DYKE CATEGORIES: A - 1:200 yr. Flood + 0.6 M Freeboard
B - 1:200 yr. Flood, no Freeboard
C - Less than 1:200 yr. Flood or unknown

* -See Column Y COMMENTS



CHEHALIS FIRST NATION

Scale: 1 : 40,000

Ministry of Environment, Lands & Parks | Date: February 2000 | Environment & Lands Division